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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,318	06/05/2000	Kiril A. Pandelisev	PHOENIX	8159

7590

08/14/2002

James C Wray
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EXAMINER

KHAN, OMAR A

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

Office Action Summary

Application No.

09/587,318

Applicant(s)

PANDELISEV, KIRIL A.

Examiner

Omar A Khan

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) 42-83 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2000 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 42-83 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in Paper No. 4.

Applicant's election with traverse of the invention of Group I in Paper No. 4 is acknowledged. That the inventions are independent and distinct has been discussed at length in Election/Restriction Requirement, Paper No. 3. A serious burden exists as each group contains subject matter derived from differing subclasses and thus, a complete search would require a search for each Group in subclasses that other Groups do not require. Additionally, a serious burden exists since each group contains specific/particular limitations that other groups do not contain. As stated in Paper No. 3, a serious burden exists since the groups have acquired a separate status in the art because of their recognized divergent subject matter. Applicant's arguments have been considered but are not persuasive. The requirement is still deemed proper and is therefore made final.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7-25, 27-37, and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 is vague and indefinite for citing the limitation “self-contained controls” as it is unclear whether these are the same or different from the controls cited in the parent claim.

Claim 8 recites the limitation “the self-contained controls”. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 is vague and indefinite for citing the limitation “signal control circuits” as it is unclear what signal the control circuits are controlling. A “signal” controlled by the control circuits is inferentially included and not positively recited in the claims.

Claim 12 is vague and indefinite for citing the limitation “signal cables” as it is unclear what signal the cables are carrying. A “signal” to be carried by the cables is inferentially included and not positively recited in the claims.

Claim 15 is vague and indefinite for citing the limitation “the control” as it is unclear which controls this refers to: the self-contained controls, control circuits, or the controls of the independent claim.

Claim 16 is vague and indefinite for citing the limitation “remote controls” as it is unclear whether these are the same as or different from the controls in the parent claim.

Claim 20, 24, and 31 is vague and indefinite for citing the limitation “signal cables” as it is unclear what signal the cables are carrying. A “signal” to be carried by the cables is inferentially included and not positively recited in the claims.

Claim 27 is vague and indefinite for citing the limitation “control conduits” as it is unclear whether these are the same as or different from the controls in the parent claim.

Claim 28 is vague and indefinite for citing the limitation “a power and signal generator and control” as it not explicitly clear whether these are the same as or different from the power supply and controls of the independent claim.

Claim 29 recites the limitation “the power and signal generator and control”. There is insufficient antecedent basis for this limitation in the claim.

Claims 32 and 33 are vague and indefinite for citing the limitation “control panel” as it is unclear whether this is the same as or different from the controls of the parent claim.

Claims 34 and 35 are vague and indefinite for citing the limitation “a battery power supply” as it is not explicitly clear whether this is the same as or different from the power supply of the parent claim.

Claims 36 and 37 are vague and indefinite for citing the limitation “a signal generator and control” since it not distinctly evident whether this is the same as or different from the controls of the parent claim.

Claim 38 is vague and indefinite for citing the limitation “with increasing frequencies for indicating proximity to the wounds being treated”. The functional or structural limitation of the claimed invention as described by this phrase is not at all clear.

Claim 39 is vague and indefinite for citing the limitation “the base encircles a limb on the body” as it would seem a connection to the human body is being claimed. Apparatus claims cannot claim human body parts. Examiner suggests –the base is adapted to encircle a limb on the body-.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Browner (US Patent No 3,025,857).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8, 16, 26-35, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russek (US Patent No 4,381,012) in view of Alon (US Patent No 4,690,146). Russek clearly discloses all of the claimed limitations but does not explicitly speak to batteries being connected to the self-contained controls and communicating individually with each of the plurality of cells. Alon teaches a neuromuscular stimulating/healing apparatus with power supplies operatively connected to the self-contained controls within each cell and individually communicating with each of the plurality of cells allowing for asynchronous stimulation, increasing the portability of the device, providing adequate power for sustained time periods. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify the electrode healing device of Russek to include batteries being connected to the self-contained controls and communicating individually with each of the plurality of cells as taught by Alon allowing for asynchronous stimulation, increasing the portability of the device, and providing adequate power for sustained time periods.

5. Claims 1-4, 7-15 and 26-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrow (US Patent No 5,344,384) in view of Alon (US Patent No 4,690,146). Ostrow discloses all of the claimed limitations but does not speak explicitly to separate controls connected individually to each of the cells. Alon teaches a neuromuscular stimulation/healing device with separate controls for each of the plurality of stimulating cells for allowing asynchronous or differential stimulation of the treatment site. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the magnetotherapy healing apparatus of Ostrow to include controls separately controlling application of power to each of the cells, as taught by Alon, for allowing asynchronous or differential stimulation at the treatment site.

6. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrow (US Patent No 5,344,384) in view of Alon (US Patent No 4,690,146) further in view of Russek (US Patent No 4,381,012). Ostrow, in view of Alon, discloses all of the claimed limitations but does not explicitly speak to the power source mounted or connected to the base. Russek teaches an electrode placement and treatment device with a battery power source mounted and connected to the base for increasing the portability of the device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the magnetotherapy healing

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device of Ostrow, in view of Alon, to mount or connect the power supply or battery on the case, as taught by Russek, to allow for increased portability of the device.

7. Claims 16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrow (US Patent No 5,344,384) in view of Alon (US Patent No 4,690,146) further in view of Russek (US Patent No 4,381,012). Ostrow, in view of Alon, discloses all of the claimed limitations but does not explicitly speak to remote control of the magnetotherapy healing device. Russek teaches an electrode placement and treatment device with remote control of the device for increasing the portability of the device and allowing for more convenient and easy control by a patient who has limited movement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the magnetotherapy healing device of Ostrow, in view of Alon, to include remote control of the device, as taught by Russek, for increasing the portability of the device and allowing for more convenient and easy control by a patient who has limited movement.

8. Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrow (US Patent No 5,344,384) in view of Alon (US Patent No 4,690,146) further in view of McLeod (US Patent No 5,518,496). Ostrow, in view of Alon, discloses all of the claimed limitations but does not speak explicitly to a sensor for measuring a parameter of the wounds being treated. McLeod teaches a magnetic healing device with a magnetic field sensor for measuring the resultant magnetic field and ensuring a uniform field in the predetermined space or treatment area. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the magnetotherapy healing apparatus of Ostrow, in view of Alon, to include a sensor for measuring a parameter of the wounds being treated, as taught by McLeod, for

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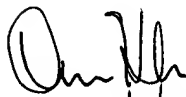
measuring the resultant magnetic field and ensuring a uniform field in the predetermined space or treatment area.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar A Khan whose telephone number is (703) 308-0959. The examiner can normally be reached on M-F 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703) 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0873.


8/9/2002
Omar A Khan
August 9, 2002


GEORGE R. EVANISKO
PRIMARY EXAMINER

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